

REMARKS

The instant application is a national filing of PCT patent publication WO 02/068367 (PCT/US02/06339). The application claims priority to three US provisional applications; 60/271,588, 60/271,590, and 60/271,591 all filed on February 26, 2001.

The amendment to claim 1 in a), related to the number of R groups which must be hydrogen atoms, is to distinguish the claimed compounds from those disclosed in the Frank-Neumann and Heydt references noted in the Supplemental Information Disclosure Statement submitted concurrently with this Amendment and Response. This amendment is supported by the PCT Published version of the Specification, page 6, lines 16-18. The amendments to claims 1 and 2 deleting the term "and that at least one of R¹, R², R³, and R⁴ comprises an E, G, or J group" which was originally intended to disclaim compounds disclosed in US Patent No. 6,194,350 and its continuation-in-part US Patent No. 6,365,549 has been found to be unnecessary because the proviso in claims 1 and 2: "at least one of R¹, R², R³, and R⁴ contains one to four non-hydrogen atoms and at least one of R¹, R², R³, and R⁴ contains more than four non-hydrogen atoms" fully distinguishes the claimed compounds from those disclosed in US Patents 6,194,350 and 6,365,549.

The following comments relate to the rejections detailed in the Office Action.

Rejection under 35 USC §112 - first paragraph

Claim 1 is rejected under 35 USC §112 - first paragraph in that the claims contain subject matter not described in the specification, specifically, the amendment in claim 1 "at least one of R¹, R², R³, and R⁴ comprises an E, G, or J group" is new matter.

As noted above, Applicants have amended the claims to remove this clause. Therefore, this rejection is moot.

Rejection under 35 USC § 102(b)

Claim 1 is rejected under 35 USC § 102(b) as being anticipated by Kostanek, U. S. Patent No. 6,548,448 ("Kostanek") in that Kostanek discloses Benzene, 1-chloro-4-cycloprop-1-enylmethyl.

Kostanek was filed on February 26, 2002 with a priority date of February 26, 2001. As noted above, the instant application is a national filing of PCT patent publication WO 02/068367 (PCT/US02/06339). The application claims priority to three US provisional applications; 60/271,588, 60/271,590, and 60/271,591 all filed on February 26, 2001. Both the instant application and Kostanek have the same priority dates. Thus, Kostanek is not a valid 35 USC § 102(b) reference. Applicants further note that Kostanek would not be a proper reference under any of 35 USC § 102 as Kostanek and the instant application were commonly owned at the time of filing.

Double Patenting - First Rejection (Kostanek)

Claim 1 is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over Kostanek, U.S. 6,548,448 in that the instant compounds are taught by Kostanek.

Applicants are claiming certain compounds and methods of use. Kostanek claims a specific type of delivery system for cyclopropene compounds which comprises a combination of the cyclopropene compounds and packaging materials. The cyclopropene compounds claimed in Kostanek overlap with those claimed in Applicants' application. However, there are a large number of cyclopropene compounds claimed in Kostanek which are outside of Applicants' claims. Thus, Kostanek's invention could be practiced without utilizing Applicants' claimed compounds and, therefore, is patentably distinct from Applicants' invention. Furthermore, as the priority dates of Applicants' application and Kostanek are the same, Applicants would not obtain an unjust extension of the right to exclude by the grant of Applicants' claims.

Double Patenting - Second Rejection (Lamola et al)

Claim 1 is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 7-10 Lamola et al, U.S. 6,770,600 ("Lamola") in that the instant compounds are taught by the prior art.

Again, Applicants respectfully submit that Lamola is not valid prior art against the instant application. Lamola was filed on February 28, 2003 with a priority date of February 27, 2002. Applicants' priority date is a year earlier. In addition, the claims of Applicants' invention are patentably distinct from those of Lamola. Applicants are claiming certain compounds and methods of use. Lamola claims a specific type of delivery system for cyclopropene compounds which comprises a combination of the cyclopropene compounds and a substrate coated with a composition comprising the cyclopropene which, when exposed to a release agent generates a

free cyclopropene. The cyclopropene compounds claimed in Lamola overlap with those claimed in Applicants' application. However, there are a large number of cyclopropene compounds claimed in Lamola which are outside of Applicants' claims. Thus, Lamola's invention could be practiced without utilizing Applicants' claimed compounds and, therefore, is patentably distinct from Applicants' invention. Furthermore, as the filing date of Applicants' application preceeds that of Lamola, Applicants would not obtain an unjust extension of the right to exclude by the grant of Applicants' claims.

However, in order to advance prosecution of this Application, should the other grounds of rejection be overcome and the obviousness-type double patenting rejections are maintained, Applicants would agree to timely file the appropriate terminal disclaimers to overcome the two double patenting rejections.

With this response, Applicants believe that the prior rejections have been overcome and the claims are in condition for allowance. Should the Examiner have any suggestions which may put the Application in better condition for allowance, Applicants' attorney is willing to discuss any such suggestions either by phone or at the U. S. Patent and Trademark Office.

Respectfully submitted,

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